



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2012- 0294

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders;

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption, request for comments.

SUMMARY: FMCSA announces receipt of applications from 9 individuals for an exemption from the prohibition against persons with a clinical diagnosis of epilepsy or any other condition which is likely to cause a loss of consciousness or any loss of ability to operate a commercial motor vehicle (CMV) from operating CMVs in interstate commerce. The regulation and the associated advisory criteria published in the Code of Federal Regulations as the “Instructions for Performing and Recording Physical Examinations” have resulted in numerous drivers being prohibited from operating CMVs in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified medical examiner. If granted, the exemptions would enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs for 2 years in interstate commerce.

DATES: Comments must be received on or before [Insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2012-0094- using any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the

on-line instructions for submitting comments.

- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- Hand Delivery: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Fax: 1-202-493-2251.

Each submission must include the Agency name and the docket ID for this Notice. Note that DOT posts all comments received without change to <http://www.regulations.gov>, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> at any time or Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the Federal

Register published on December 29, 2010 (75 FR 82132). This information is also available at <http://Docketinfo.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Elaine Papp, Chief, Medical Programs Division (202) 366-4001, or via email at fmcsamedical@dot.gov, or by letter FMCSA, Room W64-113, Department of Transportation, 1200 New Jersey Avenue, S.E., Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption for a 2-year period if it finds “such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.” The statutes also allow the Agency to renew exemptions at the end of the 2-year period. The 9 individuals listed in this notice have recently requested an exemption from the epilepsy prohibition in 49 CFR 391.41(b)(8), which applies to drivers who operate CMVs as defined in 49 CFR 390.5, in interstate commerce. Section 391.41(b)(8) states that a person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a commercial motor vehicle.

FMCSA provides medical advisory criteria for use by medical examiners in determining whether drivers with certain medical conditions should be certified to operate commercial motor vehicles in intrastate commerce. The advisory criteria indicate

that if an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause which did not require anti-seizure medication, the decision whether that person's condition is likely to cause the loss of consciousness or loss of ability to control a CMV should be made on an individual basis by the medical examiner in consultation with the treating physician. Before certification is considered, it is suggested that a 6-month waiting period elapse from the time of the episode.

Following the waiting period, it is suggested that the individual have a complete neurological examination. If the results of the examination are negative and anti-seizure medication is not required, then the driver may be qualified.

In those individual cases where a driver had a seizure or an episode of loss of consciousness that resulted from a known medical condition (e.g., drug reaction, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), certification should be deferred until the driver has fully recovered from that condition, has no existing residual complications, and is not taking anti-seizure medication.

Drivers who have a history of epilepsy/seizures, off anti-seizure medication and seizure-free for 10 years, may be qualified to operate a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5-year period or more.

SUMMARY OF APPLICATIONS

Patrick Andreasen

Mr. Andreasen is a 54 year-old Class C driver in the State of Pennsylvania. He has a history of epilepsy. His last seizure was in 1982. He has remained seizure free for

30 years. He takes anti-seizure medication with the dosage and frequency remaining the same for 20 years. If granted the exemption, he would like to drive a 15-passenger bus. His physician states he is supportive of Mr. Andreasen receiving an exemption and Mr. Andreasen states he feels he would operate a vehicle at the same safety level as someone who did not require an exemption.

Samuel D. Beverly

Mr. Beverly is a 46 year-old driver in the State of Virginia. He has a history of seizures and his last seizure was in 1995. He takes anti-seizure medication with the dosage and frequency remaining the same for over 17 years. If granted the exemption, he would like to drive a dump truck. Mr. Beverly's physician states he is highly supportive of Mr. Beverly receiving an exemption.

Craig Bugella

Mr. Bugella is a 46 year-old CMV driver in the State of Wisconsin. He has a history of complex partial and generalized seizures. He has remained seizure free for 11 years. He takes anti-seizure medication with the dosage and frequency remaining the same for 11 years. If granted the exemption, he would like to drive bucket trucks and Derrick diggers. His physician states he is extremely confident Mr. Bugella can operate commercial motor vehicles in interstate commerce.

Eric Hilmer

Ms. Hilmer is a 36 year-old Class D driver in the State of Wisconsin. He has a history of generalized seizure disorder as a child. His last seizure in October 2007, following a closed head injury and at that time, he was not taking anti-seizure medication. Prior to that event, his last seizure had been at age 17. He takes anti-seizure medication

with the dosage and frequency remaining the same for 5 years. If granted the exemption, she would like to drive commercial motor vehicles. His physician is supportive of Mr. Hilmer being granted an exemption.

Tye Dale Moore

Mr. Moore is a 46 year-old driver in the State of Indiana. He has a diagnosis of seizure disorder and has remained seizure free for more than 20 years. He takes anti-seizure medication with the dosage and frequency remaining the same for 18 years. If granted the exemption, he would like to drive tractor trailers in interstate commerce. His physician states he is supportive of Mr. Moore receiving an exemption.

Michael C. Ranalli

Mr. Ranalli is a 27 year-old Class CM driver in the State of Pennsylvania. He has a diagnosis of Juvenile Myoclonic Epilepsy. His last seizure was in 2006. He has remained seizure free for over 6 years. He takes anti-seizure medication with the dosage and frequency remaining the same for 6 years. If granted the exemption, he would like to drive a Class A International Material Handler bucket truck, a single axle with a gross weight of 22,000 pounds. His physician states he is supportive of Mr. Ranalli being granted an exemption.

Robert Spencer

Mr. Spencer is a 30 year-old Class E driver in the State of Florida. He has a diagnosis of seizure disorder and his last seizure was in February 2009. He has remained seizure free for over 3 years. He takes anti-seizure medication with the dosage and frequency remaining the same for over 3 years. If granted the exemption, he would like to

drive a delivery van under 26,000 pounds. His physician is supportive of Mr. Spencer being granted an exemption.

Brian J. Wiggins

Mr. Wiggins is a 52 year-old CMV driver in the State of Idaho.. He has a diagnosis of seizure disorder and his last seizure was in 1996. This seizure was the result of his physician taking him off of his anti-seizure medication. He has remained seizure free for 16 years. He takes anti-seizure medication with the dosage and frequency remaining the same for 16 years. He is a diesel mechanic and, if granted the exemption, would be driving Class 6, 7, and 8 trucks for diagnosis and repair purposes. His physician is supportive of Mr. Wiggins being granted an exemption.

Timothy M. Zarahatka

Mr. Zarahatka is a 37 year-old Class D driver in the State of Minnesota. He suffered a penetrating head injury in 1993 and developed a seizure disorder following the injury. He was taking anti-seizure medications with good control until his treating physician changed his medication to a generic in 2008. His last seizure was in August 2008 and his medication was changed. He has remained seizure-free for 4 years. He takes anti-seizure medication with the dosage and frequency remaining the same for 4 years. If granted the exemption, he would like to drive a single axle dump truck. His physician states he is supportive of Mr. Zarahatka being granted an exemption.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on the exemption applications described in this notice. We will consider all comments received before the close of business on the closing date indicated earlier in the notice.

Issued on: January 10, 2013

Larry W. Minor
Associate Administrator for Policy

[FR Doc. 2013-00712 Filed 01/11/2013 at 4:15 pm; Publication Date: 01/15/2013]